

House File 2438 - Introduced

HOUSE FILE 2438

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2288)

(SUCCESSOR TO HSB 518)

A BILL FOR

1 An Act relating to the administration of programs by the
2 economic development authority by creating a renewable
3 chemical production tax credit program, modifying the high
4 quality jobs program, and including effective date and other
5 applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

HIGH QUALITY JOBS PROGRAM

Section 1. Section 15.119, subsection 2, paragraph a, Code 2016, is amended to read as follows:

a. (1) The high quality ~~job-creation~~ jobs program administered pursuant to sections 15.326 through 15.336.

(2) In allocating tax credits pursuant to this subsection for each fiscal year of the fiscal period beginning July 1, 2016, and ending June 30, 2021, the authority shall not allocate more than one hundred five million dollars for purposes of this paragraph. This subparagraph (2) is repealed July 1, 2021.

(3) (a) In allocating tax credits pursuant to this subsection for the fiscal year beginning July 1, 2021, and ending June 30, 2022, the authority shall not allocate more than one hundred five million dollars for purposes of this paragraph if the aggregate amount of renewable chemical production tax credits under section 15.319 that were awarded on or after July 1, 2018, but before July 1, 2021, equals or exceeds twenty-seven million dollars.

(b) As soon as practicable after June 30, 2021, the authority shall notify the general assembly of the aggregate amount of renewable chemical production tax credits awarded under section 15.319 on or after July 1, 2018, but before July 1, 2021, and whether or not the tax credit allocation limitation described in subparagraph division (a) is applicable.

(c) This subparagraph (3) is repealed July 1, 2022.

DIVISION II

RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

Sec. 2. Section 2.48, subsection 3, Code 2016, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. In 2022, the renewable chemical production tax credit program available under sections 15.315 through 15.322.

1 Sec. 3. Section 15.119, subsection 2, Code 2016, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *h.* The renewable chemical production tax
4 credit program administered pursuant to sections 15.315 through
5 15.322. In allocating tax credits pursuant to this subsection,
6 the authority shall not allocate more than ten million dollars
7 for purposes of this paragraph. This paragraph is repealed
8 July 1, 2030.

9 Sec. 4. NEW SECTION. 15.315 **Short title.**

10 This part shall be known and may be cited as the "*Renewable*
11 *Chemical Production Tax Credit Program*".

12 Sec. 5. NEW SECTION. 15.316 **Definitions.**

13 As used in this part, unless the context otherwise requires:

14 1. "*Biobased content percentage*" means, with respect to any
15 renewable chemical, the amount, expressed as a percentage, of
16 renewable organic material present as determined by testing
17 representative samples using the American society for testing
18 and materials standard D6866.

19 2. "*Biomass feedstock*" means sugar, polysaccharide, crude
20 glycerin, lignin, fat, grease, or oil derived from a plant or
21 animal, or a protein capable of being converted to a building
22 block chemical by means of a biological or chemical conversion
23 process.

24 3. "*Building block chemical*" means a molecule converted
25 from biomass feedstock as a first product or a secondarily
26 derived product that can be further refined into a higher-value
27 chemical, material, or consumer product. "*Building block*
28 *chemical*" includes but is not limited to high-purity glycerol,
29 oleic acid, lauric acid, methanoic or formic acid, arabonic
30 acid, erythronic acid, glyceric acid, glycolic acid, lactic
31 acid, 3-hydroxypropionate, propionic acid, malonic acid,
32 serine, succinic acid, fumaric acid, malic acid, aspartic
33 acid, 3-hydroxybutyrolactone, acetoin, threonine, itaconic
34 acid, furfural, levulinic acid, glutamic acid, xylonic acid,
35 xylaric acid, xylitol, arabitol, citric acid, aconitic acid,

1 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid,
2 sorbitol, gallic acid, ferulic acid, nonfuel butanol, nonfuel
3 ethanol, or such additional molecules as may be included by the
4 authority by rule after consultation with appropriate experts
5 from Iowa state university, including but not limited to the
6 Iowa state university center for biorenewable chemicals.

7 4. "*Crude glycerin*" means glycerin with a purity level below
8 ninety-five percent.

9 5. "*Eligible business*" means a business meeting the
10 requirements of section 15.317.

11 6. "*Food additive*" means a building block chemical that
12 is not primarily consumed as food but which, when combined
13 with other components, improves the taste, appearance, odor,
14 texture, or nutritional content of food. The authority, in its
15 discretion, shall determine whether or not a building block
16 chemical is primarily consumed as food.

17 7. "*High-purity glycerol*" means glycerol with a purity level
18 of ninety-five percent or higher.

19 8. "*Pre-eligibility production threshold*" means, with respect
20 to each eligible business, the number of pounds of renewable
21 chemicals produced, if any, by an eligible business during the
22 calendar year prior to the calendar year in which the business
23 first qualified as an eligible business pursuant to section
24 15.317.

25 9. "*Program*" means the renewable chemical production tax
26 credit program administered pursuant to this part.

27 10. "*Renewable chemical*" means a building block chemical
28 with a biobased content percentage of at least fifty percent.
29 "*Renewable chemical*" does not include a chemical sold or used
30 for the production of food, feed, or fuel. "*Renewable chemical*"
31 includes cellulosic ethanol, starch ethanol, or other ethanol
32 derived from biomass feedstock, fatty acid methyl esters,
33 or butanol, but only to the extent that such molecules are
34 produced and sold for uses other than food, feed, or fuel.
35 "*Renewable chemical*" also includes a building block chemical

1 that can be a food additive as long as the building block
2 chemical is not primarily consumed as food and is also sold
3 for uses other than food. "*Renewable chemical*" also includes
4 supplements, vitamins, nutraceuticals, and pharmaceuticals, but
5 only to the extent that such molecules do not provide caloric
6 value so as to be considered sustenance as food or feed.

7 11. "*Sugar*" means the organic compound glucose, fructose,
8 xylose, arabinose, lactose, sucrose, starch, cellulose, or
9 hemicellulose.

10 Sec. 6. NEW SECTION. 15.317 **Eligibility requirements.**

11 To be eligible to receive the renewable chemical production
12 tax credit pursuant to the program, a business shall meet all
13 of the following requirements:

14 1. The business is physically located in this state.

15 2. The business is operated for profit and under single
16 management.

17 3. The business is not an entity providing professional
18 services, health care services, or medical treatments or an
19 entity engaged primarily in retail operations.

20 4. The business organized, expanded, or located in the state
21 on or after the effective date of this division of this Act.

22 5. The business shall not be relocating or reducing
23 operations as described in section 15.329, subsection 1,
24 paragraph "b", and as determined under the discretion of the
25 authority.

26 6. The business is in compliance with all agreements entered
27 into under this program or other programs administered by the
28 authority.

29 Sec. 7. NEW SECTION. 15.318 **Eligible business application**
30 **and agreement — maximum tax credits.**

31 1. *Application.*

32 a. An eligible business that produces a renewable chemical
33 in this state from biomass feedstock during a calendar year may
34 apply to the authority for the renewable chemical production
35 tax credit provided in section 15.319.

1 **b.** The application shall be made to the authority in the
2 manner prescribed by the authority.

3 **c.** The application shall be made during the calendar year
4 following the calendar year in which the renewable chemicals
5 are produced.

6 **d.** The authority may accept applications on a continuous
7 basis or may establish, by rule, an annual application
8 deadline.

9 **e.** The application shall include all of the following
10 information:

11 (1) The amount of renewable chemicals produced in the state
12 from biomass feedstock by the eligible business during the
13 calendar year, measured in pounds.

14 (2) Any other information reasonably required by the
15 authority in order to establish and verify eligibility under
16 the program.

17 **2. Agreement and fees.**

18 **a.** Before being issued a tax credit under section 15.319,
19 an eligible business shall enter into an agreement with the
20 authority for the successful completion of all requirements of
21 the program. As part of the agreement, the eligible business
22 shall agree to collect and provide any information reasonably
23 required by the authority in order to allow the board to
24 fulfill its reporting obligation under section 15.320.

25 **b.** The compliance cost fees authorized in section 15.330,
26 subsection 12, shall apply to all agreements entered into
27 under this program and shall be collected by the authority in
28 the same manner and to the same extent as described in that
29 subsection.

30 **c.** An eligible business shall fulfill all the requirements
31 of the program and the agreement before receiving a tax credit
32 or entering into a subsequent agreement under this section.
33 The authority may decline to enter into a subsequent agreement
34 under this section or issue a tax credit if an agreement is not
35 successfully fulfilled.

1 *d.* Upon establishing that all requirements of the program
2 and the agreement have been fulfilled, the authority shall
3 issue a tax credit and related tax credit certificate to the
4 eligible business stating the amount of renewable chemical
5 production tax credit the eligible business may claim.

6 3. *Maximum tax credit amount.*

7 *a.* The maximum amount of tax credit that may be issued under
8 section 15.319 to an eligible business for the production of
9 renewable chemicals in a calendar year shall not exceed the
10 following:

11 (1) In the case of an eligible business that has been in
12 operation in the state for five years or less at the time of
13 application, one million dollars.

14 (2) In the case of an eligible business that has been in
15 operation in the state for more than five years at the time of
16 application, five hundred thousand dollars.

17 *b.* An eligible business shall not receive a tax credit for
18 renewable chemicals produced before the date the business first
19 qualified as an eligible business pursuant to section 15.317.

20 *c.* An eligible business shall only receive a tax credit for
21 renewable chemicals produced in a calendar year to the extent
22 such production exceeds the eligible business's pre-eligibility
23 production threshold.

24 *d.* An eligible business shall not receive more than five tax
25 credits under the program.

26 *e.* The authority shall issue tax credits under the program
27 on a first-come, first-served basis until the maximum amount of
28 tax credits allocated pursuant to section 15.119, subsection
29 2, paragraph "h", is reached. The authority shall maintain
30 a list of successful applicants under the program, so that
31 if the maximum aggregate amount of tax credits is reached in
32 a given fiscal year, eligible businesses that successfully
33 applied but for which tax credits were not issued shall be
34 placed on a wait list in the order the eligible businesses
35 applied and shall be given priority for receiving tax credits

1 in succeeding fiscal years. Placement on a wait list pursuant
2 to this paragraph shall not constitute a promise binding the
3 state. The availability of a tax credit and issuance of a tax
4 credit certificate pursuant to this subsection in a future
5 fiscal year is contingent upon the availability of tax credits
6 in that particular fiscal year.

7 4. *Termination and repayment.* The failure by an eligible
8 business in fulfilling any requirement of the program or any of
9 the terms and obligations of an agreement entered into pursuant
10 to this section may result in the reduction, termination,
11 or rescission of the tax credits under section 15.319 and may
12 subject the eligible business to the repayment or recapture of
13 tax credits claimed. The repayment or recapture of tax credits
14 pursuant to this subsection shall be accomplished in the same
15 manner as provided in section 15.330, subsection 2.

16 5. *Confidentiality.*

17 a. Except as provided in paragraph "b", any information
18 or record in the possession of the authority with respect to
19 the program shall be presumed by the authority to be a trade
20 secret protected under chapter 550 or common law and shall be
21 kept confidential by the authority unless otherwise ordered by
22 a court.

23 b. The identity of a tax credit recipient and the amount
24 of the tax credit shall be considered public information under
25 chapter 22.

26 Sec. 8. NEW SECTION. 15.319 Renewable chemical production
27 tax credit.

28 1. An eligible business that has entered into an agreement
29 pursuant to section 15.318 may claim a tax credit in an amount
30 equal to the product of five cents multiplied by the number
31 of pounds of renewable chemicals produced in this state from
32 biomass feedstock by the eligible business during the calendar
33 year in excess of the eligible business's pre-eligibility
34 production threshold. However, an eligible business shall
35 not receive a tax credit for the production of a secondarily

1 derived building block chemical if that chemical is also the
2 subject of a credit at the time of production as a first
3 product. The renewable chemical production tax credit shall
4 not be available for any renewable chemical produced before the
5 2017 calendar year or after the 2026 calendar year.

6 2. The tax credit shall be allowed against taxes imposed
7 under chapter 422, division II or III.

8 3. The tax credit shall be claimed for the tax year during
9 which the eligible business was issued the tax credit.

10 4. An individual may claim a tax credit under this section
11 of a partnership, limited liability company, S corporation,
12 cooperative organized under chapter 501 and filing as a
13 partnership for federal tax purposes, estate, or trust electing
14 to have income taxed directly to the individual. The amount
15 claimed by the individual shall be based upon the pro rata
16 share of the individual's earnings from the partnership,
17 limited liability company, S corporation, cooperative, estate,
18 or trust.

19 5. Any tax credit in excess of the tax liability is
20 refundable. In lieu of claiming a refund, the taxpayer
21 may elect to have the overpayment shown on the taxpayer's
22 final, completed return credited to the tax liability for the
23 following tax year.

24 6. *a.* To claim a tax credit under this section, a taxpayer
25 shall include one or more tax credit certificates with the
26 taxpayer's tax return.

27 *b.* The tax credit certificate shall contain the taxpayer's
28 name, address, tax identification number, the amount of the
29 credit, the name of the eligible business, and any other
30 information required by the department of revenue.

31 *c.* The tax credit certificate, unless rescinded by the
32 authority, shall be accepted by the department of revenue as
33 payment for taxes imposed pursuant to chapter 422, divisions II
34 and III, subject to any conditions or restrictions placed by
35 the authority upon the face of the tax credit certificate and

1 subject to the limitations of the program.

2 *d.* Tax credit certificates issued pursuant to this section
3 shall not be transferred to any other person.

4 Sec. 9. NEW SECTION. 15.320 Reports to general assembly.

5 1. For purposes of this section, "*successful tax credit*
6 *applicant*" includes, with respect to each calendar year, an
7 eligible business that was issued a tax credit for production
8 of renewable chemicals during that calendar year, and an
9 eligible business that successfully applied for a tax credit
10 for the production of renewable chemicals during that calendar
11 year, but was not issued a tax credit and was instead placed on
12 a wait list pursuant to section 15.318, subsection 3, paragraph
13 "e".

14 2. By January 31, 2019, and by the same date each year
15 thereafter, the board, in cooperation with the department of
16 revenue, shall submit to the general assembly and the governor
17 a report describing the activities of the program for the most
18 recent calendar year for which the tax credit application
19 period has ended pursuant to section 15.318, subsection 1,
20 paragraph "c". The report shall at a minimum include the
21 following information:

22 *a.* The aggregate number of pounds, and a list of each type,
23 of renewable chemicals produced in Iowa by all successful
24 tax credit applicants during the calendar year prior to the
25 calendar year for which the successful applicants first applied
26 for a tax credit under the program.

27 *b.* The aggregate number of pounds, and a list of each type,
28 of renewable chemicals produced in Iowa by all successful tax
29 credit applicants during each calendar year.

30 *c.* The aggregate sales of all renewable chemicals produced
31 by all successful tax credit applicants in each calendar
32 year for which there are at least five successful tax credit
33 applicants.

34 *d.* The aggregate number of pounds, and a list of each
35 type, of biomass feedstock used in the production of renewable

1 chemicals in Iowa by all successful tax credit applicants
2 during the calendar year prior to the calendar year for which
3 the successful applicants first applied for a tax credit under
4 the program.

5 *e.* The aggregate number of pounds, and a list of each
6 type, of biomass feedstock used in the production of renewable
7 chemicals in Iowa by all successful tax credit applicants
8 during each calendar year.

9 *f.* The number of employees located in Iowa of all successful
10 tax credit applicants during the calendar year prior to the
11 calendar year for which the successful applicants first applied
12 for a tax credit under the program.

13 *g.* The number of employees located in Iowa of all successful
14 tax credit applicants during each calendar year.

15 *h.* The number and aggregate amount of tax credits issued
16 under the program for each calendar year.

17 *i.* The number of eligible businesses placed on the wait
18 list for each calendar year, and the total number of eligible
19 businesses remaining on the wait list at the end of that
20 calendar year.

21 *j.* The dollar amount of tax credit claims placed on the wait
22 list for each calendar year, and the total dollar amount of tax
23 credit claims remaining on the wait list at the end of that
24 calendar year.

25 3. To protect the presumption of confidentiality
26 established in section 15.318, subsection 5, the board shall
27 report all information in an aggregate form to prevent, as much
28 as possible, information being attributable to any particular
29 eligible business.

30 Sec. 10. NEW SECTION. 15.321 Rules.

31 The authority and the department of revenue shall each adopt
32 rules as necessary for the implementation and administration
33 of this part.

34 Sec. 11. NEW SECTION. 15.322 Future repeal.

35 Sections 15.315, 15.316, 15.317, 15.318, 15.319, 15.320,

1 15.321, and this section, are repealed July 1, 2030.

2 Sec. 12. NEW SECTION. **422.10A Renewable chemical production**
3 **tax credit.**

4 The taxes imposed under this division, less the credits
5 allowed under section 422.12, shall be reduced by a renewable
6 chemical production tax credit allowed under section 15.319.

7 This section is repealed January 1, 2033.

8 Sec. 13. Section 422.33, Code 2016, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 22. The taxes imposed under this division
11 shall be reduced by a renewable chemical production tax credit
12 allowed under section 15.319. This subsection is repealed
13 January 1, 2033.

14 Sec. 14. TAX CREDIT CLAIMS. Renewable chemical production
15 tax credits issued pursuant to the renewable chemical
16 production tax credit program enacted in this division of this
17 Act shall not be issued by the economic development authority
18 prior to July 1, 2018, and shall not be claimed by a taxpayer
19 prior to September 1, 2018.

20 Sec. 15. EFFECTIVE UPON ENACTMENT. This division of this
21 Act, being deemed of immediate importance, takes effect upon
22 enactment.

23 Sec. 16. APPLICABILITY. This division of this Act applies
24 to renewable chemicals produced in the state from biomass
25 feedstock on or after January 1, 2017.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to the administration of programs by
30 the economic development authority (EDA) by modifying the
31 high quality jobs program and creating a renewable chemical
32 production tax credit program.

33 DIVISION I — HIGH QUALITY JOBS PROGRAM. Division I limits
34 for a period of five or six fiscal years the amount of tax
35 credits that may be allocated to the high quality jobs program,

1 which under current law is subject to EDA's maximum aggregate
2 tax credit cap of \$170 million per fiscal year in Code section
3 15.119. The bill provides that for each of the five fiscal
4 years beginning on July 1, 2016, and ending on June 30, 2021,
5 the authority shall not allocate more than \$105 million of
6 that \$170 million cap to the high quality jobs program. This
7 provision is repealed July 1, 2021.

8 If the aggregate amount of renewable chemical production
9 tax credits awarded by EDA for the fiscal period beginning on
10 July 1, 2018, and ending June 30, 2021, equals or exceeds \$27
11 million, then an additional year of high quality jobs program
12 tax credit allocation limitation occurs and for the fiscal
13 year beginning July 1, 2021, and ending June 30, 2022, the
14 authority shall not allocate more than \$105 million of its \$170
15 million cap to the high quality jobs program. This provision
16 is repealed July 1, 2022.

17 DIVISION II — RENEWABLE CHEMICAL PRODUCTION TAX CREDIT.

18 Division II creates a renewable chemical production tax credit
19 program (program) that will be administered by the EDA and that
20 will provide tax credits to eligible businesses that produce
21 renewable chemicals in Iowa from biomass feedstock. "Renewable
22 chemical", "biomass feedstock", and other related terms are
23 defined in the division.

24 In order to qualify for the tax credit, a business must
25 meet several requirements. First, the business must be
26 physically located in Iowa and operated for profit under
27 single management. Second, the business must not be an
28 entity providing professional services, health care services,
29 or medical treatments, or be engaged primarily in retail
30 operations. Third, the business must have organized, expanded,
31 or located in Iowa on or after the effective date of the
32 division. Fourth, the business must not be, in the discretion
33 of the EDA, ineligible under certain provisions relating to the
34 relocation or reduction of business operations within Iowa.
35 Fifth, the business must be in compliance with all agreements

1 entered into under the program or other programs administered
2 by the EDA.

3 An eligible business seeking a tax credit is required to
4 submit an application to the EDA containing various information
5 during the calendar year following the calendar year in which
6 the renewable chemicals are produced. The EDA may accept
7 applications on a continuous basis or may establish an annual
8 application deadline.

9 Before being issued a tax credit, an eligible business
10 is required to enter into an agreement with the EDA for the
11 successful completion of all requirements of the program. The
12 EDA is authorized to impose two compliance cost fees under the
13 program. The first fee equals \$500 per agreement. The second
14 fee equals 0.5 percent of the value of the tax credit claimed
15 pursuant to the agreement if the agreement has an aggregate tax
16 credit value of \$100,000 or greater.

17 An eligible business that fails to comply with the
18 requirements of the program or the terms of an agreement with
19 the EDA may have its tax credits reduced, terminated, or
20 rescinded, and may be subject to the repayment or recapture of
21 claimed tax credits.

22 The tax credit equals the product of \$.05 multiplied by the
23 number of pounds of renewable chemicals produced in Iowa from
24 biomass feedstock by the eligible business during the calendar
25 year in excess of the eligible business's pre-eligibility
26 production threshold. "Pre-eligibility production threshold"
27 is defined in the bill. Renewable chemicals produced by
28 an eligible business either prior to calendar year 2017 or
29 prior to the date the business first qualifies as an eligible
30 business, or after calendar year 2026, shall not qualify for
31 the tax credit.

32 The tax credit shall be claimed for the tax year during which
33 the eligible business was issued the tax credit. However, tax
34 credits shall not be issued by EDA prior to July 1, 2018, or
35 claimed by the taxpayer prior to September 1, 2018. The tax

1 credit may be claimed against the individual income tax and the
2 corporate income tax. The credit is refundable or may, at the
3 election of the taxpayer, be carried forward for up to one tax
4 year. The tax credit shall not be transferred to any person.

5 The division provides that the program is subject to EDA's
6 maximum aggregate tax credit cap of \$170 million per fiscal
7 year in Code section 15.119, and not more than \$10 million
8 per fiscal year may be issued by the EDA under the program.
9 In addition, the maximum amount of tax credit that may be
10 issued to an eligible business for the production of renewable
11 chemicals in a calendar year shall not exceed \$1 million or
12 \$500,000, depending on whether the eligible business has been
13 operating in Iowa at the time of application for five or fewer
14 years, or more than five years, respectively. An eligible
15 business shall not receive more than five tax credits under
16 the program. The EDA is required to issue tax credits on a
17 first-come, first-served basis until the maximum amount of
18 \$10 million per fiscal year is reached. If the amount of
19 tax credits exceeds this amount in a fiscal year, the EDA
20 is required to establish a wait list and give priority in
21 subsequent years to the eligible businesses on the wait list.

22 The division provides for the confidentiality of certain
23 information under the program. The identity of a tax credit
24 recipient and the amount of the tax credit shall be considered
25 public information under Code chapter 22 (examination of public
26 records), but any other information or record in the possession
27 of the EDA with respect to the program shall be presumed by
28 the EDA to be a trade secret protected under Code chapter 550
29 or common law and shall be kept confidential by the EDA unless
30 otherwise ordered by a court.

31 The division requires EDA to submit to the general assembly
32 and the governor an annual report describing the activities of
33 the program for each calendar year and including information
34 specified in the division. Information is required to be
35 reported in an aggregate form to protect the presumption

1 of confidentiality and to prevent, as much as possible,
2 information being attributable to any particular eligible
3 business. The report for the first calendar year the tax
4 credit is available under the program (2017) is due by January
5 31, 2019, and reports covering subsequent calendar years are
6 due by the same date each year thereafter. Eligible businesses
7 are required, as part of their agreement with EDA, to collect
8 and provide any information reasonably required by EDA in order
9 to fulfill this reporting requirement.

10 The division adds the program to the list of tax expenditures
11 to be reviewed by the legislative tax expenditure committee in
12 calendar year 2022.

13 The tax credit program is repealed July 1, 2030. References
14 to the renewable chemical production tax credit in provisions
15 of the Code relating to the individual and corporate income tax
16 are repealed January 1, 2033.

17 The division takes effect upon enactment and applies to
18 renewable chemicals produced in Iowa from biomass feedstock on
19 or after January 1, 2017.